

REMARKS

Claims 7-9, 15, 19-23, 29, 33, and 34 are pending in the present application.

Applicants wish to thank Examiner Rao for the indication in the Advisory Action mailed June 6, 2007, that the Amendment and Request for Reconsideration filed on May 14, 2007, will be entered and is sufficient to overcome the rejection under 35 U.S.C. §112, first paragraph (enablement). Accordingly, Applicants incorporate herein by reference the amendments and remarks made in the response filed on May 14, 2007, and request that the following remarks be in addition to those previously made. In view of the amendments and remarks made on May 14, 2007 and those below, Applicants request allowance of this application.

The only remaining rejection is an obviousness-type double patenting rejections of Claims 7-17, 19-31, and 33-34 over: (a) Claims 4-20 of U.S. 6,376,227, and (b) claims drawn to "a gene" in co-pending Application Nos. 10/456,479, 10/820,712, 10/820,714, 11/235,249, and 11/318,576. With respect to the obviousness-type double patenting rejections, Applicants submit the following comments:

- 1) U.S. 6,376,227 – Applicants submit herewith an executed Terminal Disclaimer over this patent. Therefore, this ground of rejection should be withdrawn.
- 2) U.S. 10/456,479 (now U.S. 7,101,698) – The only allowed claims relate to the alkaline protease. No polynucleotide claims issued. Thus, this ground of rejection is no longer proper and should be withdrawn.
- 3) U.S. 10/820,712 – An action under *Ex parte Quayle* was issued on June 4, 2007, indicating that this application has been allowed but for formal matters. The only allowed claims relate to the alkaline protease. No polynucleotide claims are allowed or are pending. Thus, this ground of rejection is no longer proper and should be withdrawn.

- 4) U.S. 10/820,714 – An action under *Ex parte Quayle* was issued on February 1, 2007, and responded to on April 2, 2007. In this application, only allowed claims that the Examiner acknowledged as being allowable relate to the alkaline protease. No polynucleotide claims are allowed or are pending. Thus, this ground of rejection is no longer proper and should be withdrawn.
- 5) U.S. 11/235,249 – A Restriction Requirement was mailed on May 21, 2007. Thus, this case is not in condition for examination and has not been allowed. Accordingly, the provisional obviousness-type double patenting rejection over this application should be withdrawn. The Examiner is reminded of MPEP §804: "If a 'provisional' nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer." And
- 6) U.S. 11/318,576 (now U.S. 7,163,807) – Applicants submit herewith an executed Terminal Disclaimer over this patent. Therefore, this ground of rejection should be withdrawn.

In summary, the rejections over Application Nos. 10/456,479, 10/820,712, 10/820,714, 11/235,249 should be withdrawn as being moot. Further, the rejections over U.S. 6,376,227 and U.S. 11/318,576 (now U.S. 7,163,807) should be withdrawn in view of the Terminal Disclaimer **filed herewith**.

Withdrawal of these grounds of rejection is requested.

Applicant submits that the application is now ready for allowance, and early notification of such action is earnestly solicited.

Respectfully submitted,

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